

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

JOHNANAS JOHNSON and JENNIFER
JOHNSON, husband and wife,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

No. 3:20-cv-05581 MJP

AMENDED PRETRIAL ORDER

I. JURISDICTION

Jurisdiction in this matter is premised upon the Federal Tort Claims Act, 28 U.S.C. § 1346(b) and 2679(b)(1). The United States has waived sovereign immunity for the negligent or wrongful acts or omissions of any federal employee acting within the scope of employment, under circumstances where the United States, if a private person, would be liable to the plaintiff in accordance with the law of the place where the act or omission occurred. 28 U.S.C. § 1346(b). The parties agree that Washington state law substantively governs the claims to be adjudicated at trial in this matter.

Venue is proper under 28 U.S.C. § 1402(b).

AMENDED PRETRIAL ORDER - 1
3:20-CV-5581-MJP

II. CLAIMS AND DEFENSES

Plaintiffs will pursue at trial the following claims: (1) monetary damages for personal injuries to Plaintiff John Johnson, including economic damages (past medical expenses, wage loss, and property loss) and noneconomic damages (past and future pain and suffering; past and future disability; past and future disfigurement; and past and future loss of enjoyment of life), arising out of the November 10, 2018 motor vehicle collision; and (2) monetary damages for loss of consortium damages to Plaintiff Jennifer Johnson, wife of Plaintiff John Johnson.

The Defendant will pursue the following affirmative defenses and/or claims: (1) Any injuries or damages to the Plaintiffs were not proximately caused by a negligent or wrongful act or omission of any agent, employee or representative of the United States; (2) Plaintiffs failed to mitigate, obviate, diminish or otherwise act to lessen or reduce the injuries, damages and disabilities alleged; (3) Plaintiffs' injuries and damages, if any, were caused by other preexisting or unrelated sicknesses, injuries, or other medical conditions.

III. ADMITTED FACTS

The following facts are admitted by the parties:

1. Plaintiffs John and Jennifer Johnson are husband and wife and residents of Washington.
2. The United States of America is the Defendant, and the Postal Service worker involved in the collision, Michael Murray, was acting as an employee of the United States within the scope of his employment.
3. Plaintiffs have satisfied the administrative exhaustion requirements under the FTCA, 28 U.S.C. § 2401.

- 1 4. A collision occurred on Boone Street in Aberdeen, Washington on November 10, 2018
- 2 at approximately 11:00 a.m., involving a Postal Service LLV¹ driven by Michael
- 3 Murray and a 2016 Kawasaki motorcycle driven by John Johnson.
- 4 5. Boone Street at this location has two southbound lanes, two northbound lanes, and a
- 5 center turn lane.
- 6 6. The speed limit on Boone Street at this location is 35 mph.
- 7 7. Mr. Murray was attempting to turn left onto Boone Street (intending to head south on
- 8 Boone Street) from a driveway/parking lot at the Thai Carrot restaurant when he
- 9 collided with Mr. Johnson's motorcycle.
- 10 8. The collision and a portion of the events leading up to the collision were captured on a
- 11 security camera at a 7-Eleven store.
- 12 9. Mr. Johnson had turned left from MacFarlane Street onto Boone Street, after getting
- 13 gas at a 7-Eleven store when his motorcycle collided with the postal truck.
- 14 10. The right front of the Johnson motorcycle collided with the right front of the LLV.
- 15 11. The Aberdeen Police Department responded to the collision and photographed the
- 16 scene.
- 17 12. The motorcycle slid on its left side on the asphalt roadway after the collision, resulting
- 18 in scraping damage to the left side of the motorcycle.
- 19 13. Mr. Johnson was transported from the scene by ambulance to Grays Harbor
- 20 Community Hospital in Aberdeen.

21 ¹ "LLV" stands for "Long Life Vehicle" and refers to the type of Postal Service vehicle involved in the collision.

1 14. Mr. Johnson had a partial amputation of approximately 1.9 cm of the tip of his right
2 middle finger and an approximately 2.0 cm laceration to the tip of his right index finger
3 with nailbed involvement.

4 15. Mr. Johnson also alleged injuries to his right knee and his tailbone/coccyx.

5 16. After being treated in the Emergency Room on the day of the collision, Mr. Johnson
6 returned to the Emergency Room for further treatment for the fingers on his right hand
7 on November 13, 2018 and November 16, 2018.

8 17. On November 16, 2018, Mr. Johnson had a surgical procedure performed by orthopedic
9 surgeon Erin Kawasaki, M.D.

10 18. Mr. Johnson had follow-up orthopedic care for his right index and middle fingers from
11 Dr. Kawasaki and Greg May, M.D.

12 19. Mr. Johnson had occupational therapy for his right index and middle fingers from Jarod
13 Mann, O.T.R., C.H.T., of Coastal Hand Therapy.

14 20. Mr. Johnson had physical therapy for his wrists and right knee from Harbor Physical
15 Therapy.

16 21. Mr. Johnson also saw physicians at Olympia Orthopedic Associates for his right knee.

17 22. Mr. Johnson's medical bills are: \$38,073.92. The reasonableness and necessity of the
18 medical bills are not disputed.

19 23. Mr. Johnson was working two part-time jobs at the time of the collision. In the
20 mornings, he worked in the cafeteria at Hoquiam Middle School. In the afternoons, he
21 worked at a construction job in Ocean Shores, Washington for Total Building
22 Concepts.

1 24. Mr. Johnson returned to working at the Hoquiam Middle School cafeteria on February
2 12, 2019.

3 25. The Postal Service issued a letter of warning to Mr. Murray after the collision.

4 **IV. ISSUES OF LAW**

5 The following are the issues of law to be determined by the Court:

- 6 1. Has Plaintiff proved by a preponderance of the evidence that the Postal Service driver
7 breached his duty to exercise reasonable care to Plaintiff John Johnson and was
8 therefore negligent?
- 9 2. If Defendant was negligent, what injuries to Plaintiff John Johnson has Plaintiff proved
10 were proximately caused by that negligence, by a preponderance of the evidence?
- 11 3. What, if any, is the amount of Plaintiff John Johnson's economic damages for:
- 12 a. Past medical expenses
- 13 b. Wage loss
- 14 c. Property damage (total loss of motorcycle)
- 15 4. What, if any, is the amount of Plaintiff John Johnson's noneconomic damages for:
- 16 a. Past and future physical pain and mental suffering
- 17 b. Past and future disability
- 18 c. Past and future disfigurement
- 19 d. Past and future loss of enjoyment of life
- 20 5. What, if any, is the amount of Plaintiff Jennifer Johnson's damages for loss of
21 consortium?

22 **V. EXPERT WITNESSES**

23 The names and addresses of the expert witnesses to be used by each party at the trial and
24 the issue upon which each will testify is:

1 (1) On behalf of plaintiff:

2 Mark Erickson, P.E.
3 Erickson Forensic
4 1800 Blankenship Rd, Suite 355
5 West Linn, OR 97068
6 (503) 201-9213
7 mark@ericksonforensic.com

8 Mr. Erickson is a mechanical engineer specializing in accident reconstruction. He will
9 testify regarding his collision reconstruction analysis.

10 (2) On behalf of the United States:

11 James W. Pritchett, M.D.
12 901 Boren Avenue, #711
13 Seattle, WA 98104
14 (206)-323-1900

15 Dr. Pritchett is an orthopedic surgeon. He will testify regarding his opinions about Mr.
16 Johnson's knee injury.

17 Rajiv Goel, M.D.
18 Sound Hand & Orthopedics
19 4616 25th Avenue N.E., #739
20 Seattle, WA 98105
21 (206)-257-3350

22 Dr. Goel is an orthopedic surgeon. He will testify regarding his opinions about Mr.
23 Johnson's hand injury.

24 VI. OTHER WITNESSES

The names and addresses of witnesses, other than experts, to be used by each party at the
time of trial and the general nature of the testimony of each are:

(a) On behalf of Plaintiffs:

Eyewitnesses:

Johnanas "John" Johnson
c/o Stritmatter Kessler Koehler Moore

1 413 8th Street
2 Hoquiam, WA 98550
3 360-533-2710
4 johnanasjohnson@yahoo.com

5 Mr. Johnson will testify to the facts of the collision and damages issues.

6 Frederick Doe
7 1913 Coolidge Road, # 17
8 Aberdeen, WA 98520
9 360-660-4091
10 fadoe8184@gmail.com

11 Mr. Doe was an eyewitness to the collision and will testify regarding his observations.

12 Michael Murray
13 c/o Matt Waldrop
14 Assistant United States Attorney
15 United States Attorney's Office
16 700 Stewart Street, Suite 5220
17 Seattle, WA 98101

18 Mr. Murray was the driver of the Postal Service LLV and will testify regarding liability
19 issues.

20 **Treating Medical Providers:**

21 Greg May, M.D. – Will Testify
22 Harbor Orthopedic
23 1211 Skyview Drive
24 Aberdeen, WA 98520
360-532-3808
Assistant: Tonya Tisdale -- totisdale@hmgcares.org

Dr. May is an orthopedic surgeon who treated Mr. Johnson. Dr. May will testify regarding the treatment that he provided to Mr. Johnson, as well as treatment provided by his former partner, Erin Kawasaki, D.O., who moved out of town to a different practice, the cause of Mr. Johnson's injuries, the nature and extent of his injuries, and his evaluation and prognosis with regard to the injuries Dr. May treated.

Jarod Mann, O.T.R., C.H.T. – Will Testify
Coastal Hand & Physical Therapy
303 South F Street
Aberdeen, WA
360-970-7894
jarodmann@hotmail.com

Jarod Mann is an occupational therapist whose practice focuses on treatment of hand injuries. Mr. Mann will testify about the treatment that he provided to Mr. Johnson, the limitations that Mr. Johnson has with regard to range of motion and strength due to the injuries to the right index and middle fingers, and how those limitations affect activities with regard to use of his right hand.

Damages Witnesses – Friends and Family:

Jennifer Johnson – Will Testify
c/o Stritmatter Kessler Koehler Moore
413 8th Street
Hoquiam, WA 98550
360-533-2710
johnanasjohnson@yahoo.com

Jennifer Johnson is the spouse of John Johnson and will testify about damages issues.

David Jorgensen – Will Testify
2836 26th Ave NE
Olympia WA 98506
253-632-7031
david.jorgensen@comcast.net

David Jorgensen is a friend of John Johnson and will testify about damages issues.

Mickey “Dan” Daniel Lane – Will Testify
519 J St
Hoquiam, WA 98550
360-593-0352
mickeylane77@gmail.com

Dan Lane is John Johnson’s father-in-law and will testify about damages issues.

Tami Lane – Will Testify
519 J St
Hoquiam, WA 98550
360-593-0350
tamilane62@gmail.com

Tami Lane is John Johnson’s mother-in-law and will testify about damages issues.

Mary Brittin – Will Testify
2433 Sumner Ave
Hoquiam, WA 98550
360-500-9473

1 marybrittinen@comcast.net

2 Mary Brittinen is John Johnson's mother and will testify about damages issues.

3 Justin Graham – Will Testify
4 431 Eklund Ave.
5 Hoquiam, WA 98550
6 360-581-0122
7 grahamfj40@gmail.com

8 Justin Graham is a friend of John Johnson and will testify about damages issues.

9 (b) On behalf of the United States:

10 Records Custodian for Hoquiam School District, No. 28 – May Testify
11 325 West Chesnault Avenue
12 Hoquiam, WA 98550

13 The United States may call a records custodian to discuss Mr. Johnson's payroll and
14 employment records for the Hoquiam School District.

15 Records Custodian for Total Building Concepts, Inc. – May Testify
16 P.O. Box 1956
17 Ocean Shores, WA 98569

18 The United States may call a records custodian to discuss Mr. Johnson's payroll and
19 employment records for Total Building Concepts.

20 Mary Christensen – May Testify
21 c/o Matt Waldrop
22 Assistant United States Attorney
23 United States Attorney's Office
24 700 Stewart Street, Suite 5220
Seattle, WA 98101

Ms. Christensen is a USPS employee and may testify regarding forms she completed
on behalf of the USPS.

VII. EXHIBITS

Plaintiff's Exhibits

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|-----------|--|--------------|---------------|----------------------------------|----------|
| 1 | Drone image of 7-Eleven and Boone St | Stipulated | Stipulated | | |
| 2 | Drone image of 7-Eleven | Stipulated | Stipulated | | |
| 3 | Drone image of intersection View 1 | Stipulated | Stipulated | | |
| 4 | Drone image of intersection View 2 | Stipulated | Stipulated | | |
| 5 | Drone image of intersection View 3 | Stipulated | Stipulated | | |
| 6 | Drone image of intersection View 4 | Stipulated | Stipulated | | |
| 7 | Drone image of intersection View 5 | Stipulated | Stipulated | | |
| 8 | Drone image of intersection View 6 | Stipulated | Stipulated | | |
| 9 | Drone image of intersection View 7 | Stipulated | Stipulated | | |
| 10 | Drone image of intersection View 8 | Stipulated | Stipulated | | |
| 11 | 7-Eleven security camera photo | Stipulated | Disputed | Fed. R. Evid. 611(a) | |
| 12 | 7-Eleven security camera Image 1 with Labels | Stipulated | Disputed | Fed. R. Evid. 611(a); foundation | |
| 13 | 7-Eleven security camera Image 3 with Labels | Stipulated | Disputed | Fed. R. Evid. 611(a); foundation | |

AMENDED PRETRIAL ORDER - 10
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|-----------|---|--------------|---------------|----------------------------------|----------|
| 14 | 7-Eleven security camera images in sequence | Stipulated | Stipulated | | |
| 15 | Drone image of 7-Eleven camera location 1 | Stipulated | Stipulated | | |
| 16 | Drone image of 7-Eleven camera location 2 | Stipulated | Stipulated | | |
| 17 | Drone image of 7-Eleven camera location 3 | Stipulated | Stipulated | | |
| 18 | Drone image of 7-Eleven camera location 4 | Stipulated | Stipulated | | |
| 19 | 7-Eleven video Image 1 | Stipulated | Stipulated | | |
| 20 | 7-Eleven video Image 2 | Stipulated | Stipulated | | |
| 21 | 7-Eleven video Image 3 | Disputed | Disputed | Fed. R. Evid. 611(a); foundation | |
| 22 | 7-Eleven video Image 4 | Stipulated | Stipulated | | |
| 23 | Drone image of Boone Street overhead 1 | Stipulated | Stipulated | | |
| 24 | Drone image of Boone Street overhead 2 | Stipulated | Stipulated | | |
| 25 | Drone image of Boone Street overhead 3 | Stipulated | Stipulated | | |
| 26 | Drone image of Boone Street overhead 4 | Stipulated | Stipulated | | |
| 27 | Drone image of Boone Street overhead 5 | Stipulated | Stipulated | | |
| 28 | Drone image looking north on Boone | Stipulated | Stipulated | | |

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|----------|------------------------------------|--------------|---------------|-----------|----------|
| 29 | Drone image looking west 1 | Stipulated | Stipulated | | |
| 30 | Drone image looking west 2 | Stipulated | Stipulated | | |
| 31 | Drone image looking west 3 | Stipulated | Stipulated | | |
| 32 | Drone image looking south on Boone | Stipulated | Stipulated | | |
| 33 | Drone image of MacFarlane overview | Stipulated | Stipulated | | |
| 34 | Drone image of MacFarlane overview | Stipulated | Stipulated | | |
| 35 | Drone image of mail truck exemplar | Stipulated | Disputed | Relevance | |
| 36 | Photo of gas pumps at 7-Eleven | Stipulated | Stipulated | | |
| 37 | Photo of Boone Street view 1 | Stipulated | Stipulated | | |
| 38 | Photo of Boone Street view 2 | Stipulated | Stipulated | | |
| 39 | View from Thai Carrot 1 | Stipulated | Stipulated | | |
| 40 | View from Thai Carrot 2 | Stipulated | Stipulated | | |
| 41 | View from Thai Carrot 3 | Stipulated | Stipulated | | |
| 42 | View from Thai Carrot 4 | Stipulated | Stipulated | | |
| 43 | View from Thai Carrot 5 | Stipulated | Stipulated | | |
| 44 | View from Thai Carrot 6 | Stipulated | Stipulated | | |
| 45 | Laser scan location 1 | Stipulated | Disputed | Relevance | |
| 46 | Laser scan location 2 | Stipulated | Disputed | Relevance | |
| 47 | Laser scan location 3 | Stipulated | Disputed | Relevance | |

AMENDED PRETRIAL ORDER - 12
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|-----------|--|--------------|---------------|---|----------|
| 48 | Laser scan location 4 | Stipulated | Disputed | Relevance | |
| 49 | Laser scan location 5 | Stipulated | Disputed | Relevance | |
| 50 | Laser scan location 6 | Stipulated | Disputed | Relevance | |
| 51 | Laser scan location 7 | Stipulated | Disputed | Relevance | |
| 52 | Laser scan location 8 | Stipulated | Disputed | Relevance | |
| 53 | Laser scan location 9 | Stipulated | Disputed | Relevance | |
| 54 | Photo of Thai Carrot | Stipulated | Stipulated | | |
| 55 | Photo of Thai Carrot mailboxes | Stipulated | Stipulated | | |
| 56 | Photo of Thai Carrot driveway and Boone | Stipulated | Stipulated | | |
| 57 | Photo looking east toward Thai Carrot | Stipulated | Stipulated | | |
| 58 | Photo of Thai Carrot Driveway | Stipulated | Stipulated | | |
| 59 | Photo looking east from 7-Eleven | Stipulated | Stipulated | | |
| 60 | Photo of damage to postal truck -- labeled | Disputed | Disputed | Fed. R. Evid. 611(a); foundation; relevancy | |
| 61 | Erickson illustration 1 -- large | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 62 | Erickson illustration 1 -- side by side | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|-----------|---|--------------|---------------|---|----------|
| 63 | Erickson illustration 2 -- large | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 64 | Erickson illustration 2 -- side by side | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 65 | Erickson illustration 2 -- with labels | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 66 | Erickson illustration 3 -- large | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 67 | Erickson illustration 3 -- side by side | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 68 | Erickson illustration 3 -- with labels | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 69 | Erickson illustration 4 -- side by side | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 70 | Finger joints illustration 1 | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 71 | Finger joints illustration 2 | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, | |

AMENDED PRETRIAL ORDER - 14
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|-----------|--|--------------|---------------|--|----------|
| | | | | relevance, authenticity | |
| 72 | Finger joints illustration 3 | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 73 | Google Earth overhead view of the intersection | Stipulated | Stipulated | | |
| 74 | Identification of scene evidence 1 | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 75 | Identification of scene evidence 2 | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, authenticity | |
| 76 | Photo of Kawasaki – right front 1 | Stipulated | Stipulated | | |
| 77 | Photo of Kawasaki – right side 1 | Stipulated | Stipulated | | |
| 78 | Photo of Kawasaki – right front 2 | Stipulated | Stipulated | | |
| 79 | Photo of Kawasaki –front tire | Stipulated | Stipulated | | |
| 80 | Photo of Kawasaki – handlebar 1 | Stipulated | Stipulated | | |
| 81 | Photo of Kawasaki – handlebar 2 | Stipulated | Stipulated | | |
| 82 | Photo of Kawasaki – handlebar 3 | Stipulated | Stipulated | | |

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|-----------|--|--------------|---------------|-----------|----------|
| 83 | Photo of Kawasaki – right front 3 | Stipulated | Stipulated | | |
| 84 | Photo of Kawasaki – front tire and right turn lights 1 | Stipulated | Stipulated | | |
| 85 | Photo of Kawasaki – right front turn light | Stipulated | Stipulated | | |
| 86 | Photo of Kawasaki – right front 4 | Stipulated | Stipulated | | |
| 87 | Photo of Kawasaki – front tire and right turn light 2 | Stipulated | Stipulated | | |
| 88 | Photo of Kawasaki – broken pieces 1 | Stipulated | Stipulated | | |
| 89 | Photo of Kawasaki – broken pieces 2 | Stipulated | Stipulated | | |
| 90 | Photo of Kawasaki – left front | Stipulated | Stipulated | | |
| 91 | Photo of Kawasaki – left rear scrape | Stipulated | Stipulated | | |
| 92 | Photo of Kawasaki – light | Stipulated | Stipulated | | |
| 93 | Photo of Kawasaki – turn bulb 1 | Stipulated | Stipulated | | |
| 94 | Photo of Kawasaki – turn bulb 2 | Stipulated | Stipulated | | |
| 95 | Photo of Kawasaki – turn bulb 3 | Stipulated | Stipulated | | |
| 96 | Photo of Kawasaki – turn bulb 4 | Stipulated | Stipulated | | |

AMENDED PRETRIAL ORDER - 16
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|-----------------|---------------------------------------|---------------------|----------------------|------------------|-----------------|
| 97 | Photo of Kawasaki – turn bulb 5 | Stipulated | Stipulated | | |
| 98 | Photo of Kawasaki – turn bulb 6 | Stipulated | Stipulated | | |
| 99 | Photo of Kawasaki – turn bulb 7 | Stipulated | Stipulated | | |
| 100 | Photo of Kawasaki – turn bulb 8 | Stipulated | Stipulated | | |
| 101 | Photo of Kawasaki – turn bulb 9 | Stipulated | Stipulated | | |
| 102 | Photo of Kawasaki – turn bulb 10 | Stipulated | Stipulated | | |
| 103 | Photo of Kawasaki – head light 1 | Stipulated | Stipulated | | |
| 104 | Photo of Kawasaki – head light 2 | Stipulated | Stipulated | | |
| 105 | Photo of Kawasaki – turn bulb 11 | Stipulated | Stipulated | | |
| 106 | Photo of Kawasaki – turn bulb 12 | Stipulated | Stipulated | | |
| 107 | Photo of Kawasaki – turn bulb 13 | Stipulated | Stipulated | | |
| 108 | Photo of Kawasaki – right rear lights | Stipulated | Stipulated | | |
| 109 | Photo of Kawasaki – turn light 14 | Stipulated | Stipulated | | |
| 110 | Photo of Kawasaki – turn light 15 | Stipulated | Stipulated | | |

AMENDED PRETRIAL ORDER - 17
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|------------|--|--------------|---------------|---------------------------------|----------|
| 111 | Photo of Kawasaki – left rear lights | Stipulated | Stipulated | | |
| 112 | Photo of Kawasaki – left rear lights | Stipulated | Stipulated | | |
| 113 | Photo of Kawasaki – turn bulb 16 | Stipulated | Stipulated | | |
| 114 | Photo of Kawasaki – right side 2 | Stipulated | Stipulated | | |
| 115 | Laser scan image of scene | Disputed | Disputed | Fed. R. Evid. 611(a), Relevance | |
| 116 | Letter of warning to Michael Murray | Stipulated | Stipulated | Subject to Protective Order | |
| 117 | Life expectancy table | Stipulated | Stipulated | | |
| 118 | Medical record – Dr. Kawasaki consultation 11/16/18 | Stipulated | Stipulated | | |
| 119 | Medical record – Grays Harbor Community Hospital – ER 11/10/18 | Stipulated | Stipulated | | |
| 120 | Medical record – Harbor Orthopedic 9/8/21 | Stipulated | Stipulated | | |
| 121 | Medical record – Harbor Orthopedic 1/16/19 visit | Stipulated | Stipulated | | |
| 122 | Medical record – Harbor Orthopedic 4/16/19 visit | Stipulated | Stipulated | | |
| 123 | Medical record – Harbor | Stipulated | Stipulated | | |

AMENDED PRETRIAL ORDER - 18
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|------------|---|--------------|---------------|--|----------|
| | Orthopedic 11/30/18 visit | | | | |
| 124 | Medical record – Jarod Mann report 8/12/21 | Stipulated | Stipulated | | |
| 125 | Medical record – Jarod Mann report 12/3/18 | Stipulated | Stipulated | | |
| 126 | Medical Expense Summary | Stipulated | Disputed | Relevancy, | |
| 127 | Motorcycle bill of sale | Stipulated | Stipulated | | |
| 128 | Motorcycle damage labeled | Disputed | Disputed | Fed. R. Evid. 611(a), Relevance, foundation | |
| 129 | Photo on motorcycle trip 1 | Stipulated | Stipulated | | |
| 130 | Photo on motorcycle trip 2 | Stipulated | Stipulated | | |
| 131 | Murray illustration of point of impact | Stipulated | Stipulated | | |
| 132 | Payroll records – Hoquiam School District | Stipulated | Stipulated | | |
| 133 | Payroll records – Total Building Concepts 10/18 to 5/19 | Stipulated | Stipulated | | |
| 134 | Payroll records – Total Building Concepts 9/18 and 10/18 | Stipulated | Stipulated | | |
| 135 | Photo – fingers in hospital 1 | Stipulated | Stipulated | | |
| 136 | Photo –hand in hospital 2 | Stipulated | Stipulated | | |
| 137 | Photo –hand in hospital 3 | Stipulated | Stipulated | | |
| 138 | Photo –hand in hospital 4 | Stipulated | Stipulated | | |

AMENDED PRETRIAL ORDER - 19
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|------------|------------------------------------|--------------|---------------|-----------|----------|
| 139 | Photo – in hospital bed 1 | Stipulated | Stipulated | | |
| 140 | Photo – in hospital bed 2 | Stipulated | Stipulated | | |
| 141 | Photo – in hospital bed 3 | Stipulated | Stipulated | | |
| 142 | Photo – preinjury hand | Stipulated | Stipulated | | |
| 143 | Photo at Camp Muir 1 | Stipulated | Stipulated | | |
| 144 | Photo at Camp Muir 2 | Stipulated | Stipulated | | |
| 145 | Photo at Mt. Adams 1 | Stipulated | Stipulated | | |
| 146 | Photo at Mt. Adams 2 | Stipulated | Stipulated | | |
| 147 | Photo at Mt. Elinor 1 | Stipulated | Stipulated | | |
| 148 | Photo at Mt. Elinor 2 | Stipulated | Stipulated | | |
| 149 | Photo at Mt. Rainier 1 | Stipulated | Stipulated | | |
| 150 | Photo at Mt. Rainier 2 | Stipulated | Stipulated | | |
| 151 | Photo at Mt. Shasta | Stipulated | Stipulated | | |
| 152 | Photo of both hands dated 11/21/18 | Stipulated | Stipulated | | |
| 153 | Photo of clothing -- jacket | Stipulated | Stipulated | | |
| 154 | Photo of clothing -- pants | Stipulated | Stipulated | | |
| 155 | Photo of fingertip 1 | Stipulated | Stipulated | | |
| 156 | Photo of fingertip 2 | Stipulated | Stipulated | | |
| 157 | Photo of fingers dated 1/4/19 | Stipulated | Stipulated | | |
| 158 | Photo of fingers dated 1/14/19 | Stipulated | Stipulated | | |
| 159 | Photo of fingers dated 2/1/19 | Stipulated | Stipulated | | |

AMENDED PRETRIAL ORDER - 20
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|------------|---|--------------|---------------|-----------|----------|
| 160 | Photo of fingers dated 11/15/18 | Stipulated | Stipulated | | |
| 161 | Photo of fingers dated 11/18/18 (1) | Stipulated | Stipulated | | |
| 162 | Photo of fingers dated 11/18/18 (2) | Stipulated | Stipulated | | |
| 163 | Photo of fingers dated 11/18/18 (3) | Stipulated | Stipulated | | |
| 164 | Photo of fingers dated 11/21/18 | Stipulated | Stipulated | | |
| 165 | Photo of fingers dated 12/2/18 | Stipulated | Stipulated | | |
| 166 | Photo of helmet 1 | Stipulated | Stipulated | | |
| 167 | Photo of helmet 2 | Stipulated | Stipulated | | |
| 168 | Photo of helmet 3 | Stipulated | Stipulated | | |
| 169 | Photo of John, Emma and Jenny Johnson | Stipulated | Disputed | Relevance | |
| 170 | Photo of left-hand brace dated 12/3/18 | Stipulated | Stipulated | | |
| 171 | Photo of middle finger dated 11/11/18 | Stipulated | Stipulated | | |
| 172 | Photo of palm of hand dated 11/18/18 -- 1 | Stipulated | Stipulated | | |
| 173 | Photo of palm of hand dated 11/18/18 -- 2 | Stipulated | Stipulated | | |
| 174 | Photo of right hand dated 1/4/19 - 1 | Stipulated | Stipulated | | |
| 175 | Photo of right hand dated 1/4/19 -- 2 | Stipulated | Stipulated | | |
| 176 | Photo of right hand dated 11/21/18 -- 1 | Stipulated | Stipulated | | |

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|------------|---|--------------|---------------|-----------|----------|
| 177 | Photo of right hand dated 11/21/18 -- 2 | Stipulated | Stipulated | | |
| 178 | Photo of soccer team | Stipulated | Disputed | Relevance | |
| 179 | Photo snowboarding at White Pass | Stipulated | Stipulated | | |
| 180 | Photo with braces dated 11/21/18 | Stipulated | Stipulated | | |
| 181 | Police photo – collision scene 0001 | Stipulated | Stipulated | | |
| 182 | Police photo – collision scene 0002 | Stipulated | Stipulated | | |
| 183 | Police photo – collision scene 0003 | Stipulated | Stipulated | | |
| 184 | Police photo – collision scene 0004 | Stipulated | Stipulated | | |
| 185 | Police photo – collision scene 0005 | Stipulated | Stipulated | | |
| 186 | Police photo – collision scene 0006 | Stipulated | Stipulated | | |
| 187 | Police photo – collision scene 0007 | Stipulated | Stipulated | | |
| 188 | Police photo – collision scene 0008 | Stipulated | Stipulated | | |
| 189 | Police photo – collision scene 0009 | Stipulated | Stipulated | | |
| 190 | Police photo – collision scene 0010 | Stipulated | Stipulated | | |
| 191 | Police photo – collision scene 0011 | Stipulated | Stipulated | | |

AMENDED PRETRIAL ORDER - 22
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|------------|--|--------------|---------------|-----------|----------|
| 192 | Police photo – collision scene 0012 | Stipulated | Stipulated | | |
| 193 | Police photo – collision scene 0013 | Stipulated | Stipulated | | |
| 194 | Police photo – collision scene 0014 | Stipulated | Stipulated | | |
| 195 | Police photo – collision scene 0015 | Stipulated | Stipulated | | |
| 196 | Police photo – collision scene 0016 | Stipulated | Stipulated | | |
| 197 | Police photo – collision scene 0017 | Stipulated | Stipulated | | |
| 198 | Police photo – collision scene 0018 | Stipulated | Stipulated | | |
| 199 | Police photo – collision scene 0019 | Stipulated | Stipulated | | |
| 200 | Police photo – collision scene 0020 | Stipulated | Stipulated | | |
| 201 | Police photo – collision scene 0021 | Stipulated | Stipulated | | |
| 202 | Police photo – collision scene 0022 | Stipulated | Stipulated | | |
| 203 | Postal Service accident report PS 1769 | Stipulated | Stipulated | | |
| 204 | Postal Service accident report with Murray Statement Standard Form | Stipulated | Stipulated | | |

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|------------|---|--------------|---------------|---|----------|
| 205 | Postal Service Driving Guidelines 1 | Stipulated | Stipulated | | |
| 206 | Postal Service Driving Guidelines 2 | Stipulated | Stipulated | | |
| 207 | Postal Service Driving Regulations | Stipulated | Stipulated | | |
| 208 | Requests for Admission – medical expenses | Stipulated | Stipulated | | |
| 209 | Summary of dates of medical treatment | Disputed | Disputed | Fed. R. Evid. 1006, Foundation, relevance, authenticity | |
| 210 | Summary of time lost from work | Disputed | Disputed | Fed. R. Evid. 1006, Foundation, relevance, authenticity | |
| 211 | Summary of wage loss | Disputed | Disputed | Fed. R. Evid. 1006, Foundation, relevance, authenticity | |
| 212 | Photo of turn bulb hot shock | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, Relevance, authenticity | |
| 213 | Video of the collision | Stipulated | Stipulated | | |
| 214 | Video of the collision -- Combined | Stipulated | Stipulated | | |
| 215 | Video of Johnson arriving at 7-Eleven | Stipulated | Stipulated | | |
| 216 | Video of Johnson getting gas | Stipulated | Stipulated | | |

AMENDED PRETRIAL ORDER - 24
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|------------|--|--------------|---------------|--|----------|
| 217 | Video of Johnson preparing to leave 7-Eleven | Stipulated | Stipulated | | |
| 218 | Video – laser scan of the incident site | Stipulated | Disputed | Fed. R. Evid. 611(a), Relevance | |
| 219 | Video – laser scan of the Kawasaki | Stipulated | Disputed | Fed. R. Evid. 611(a), Relevance | |
| 220 | Video – postal truck at 7-Eleven | Stipulated | Stipulated | | |
| 221 | Drone Video – security camera – 7-Eleven | Stipulated | Disputed | Fed. R. Evid. 611(a), relevance | |
| 222 | Video – site approach | Stipulated | Disputed | Fed. R. Evid. 611(a), Relevance | |
| 223 | Washington State Driver Guide Section 3 pages 23-25 | Stipulated | Stipulated | | |
| 224 | CAD file – Three-dimensional computer model of the incident scene, including the vehicles. Includes laser scan measurements at the crash site and of the motorcycle. | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, | |
| 225 | Illustration of a Jamar Dynamometer | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance | |
| 226 | Illustration of Pinch Testing | Disputed | Disputed | Fed. R. Evid. 611(a), Foundation, relevance, | |

AMENDED PRETRIAL ORDER - 25
3:20-CV-5581-MJP

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
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Defendant's Exhibits

| Exh. No. | Description | Authenticity | Admissibility | Objection | Admitted |
|------------|---|--------------|---------------|--|----------|
| 300 | USPS Completed Training for Michael Murray (USAO 528) | Stipulated | Stipulated | | |
| 301 | USPS Form 1700 (USAO 1-8) | Stipulated | Disputed | Hearsay – FRE 802 | |
| 302 | Murray Statement to Aberdeen PD (USAO 388) | Stipulated | Disputed | Hearsay – FRE 802 | |
| 303 | Johnson Statement to Aberdeen PD (USAO 389) | Stipulated | Stipulated | | |
| 304 | F. Doe Statement to Aberdeen PD (USAO 390) | Stipulated | Stipulated | | |
| 305 | Aberdeen Fire Department Note (USAO 743 – 746) | Stipulated | Stipulated | | |
| 306 | Accident Scene Photos by USPS (USAO 1094 – 1100) | Stipulated | Stipulated | | |
| 307 | 2-27-12 Lumbar X-Ray (USAO 1207) | Stipulated | Disputed | FRE 402 - - Relevance – subject | |

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|------------|--|------------|----------|--|--|
| | | | | of motion in limine | |
| 308 | 5-10-12 Lumbar Block (USAO 1208-1209) | Stipulated | Disputed | FRE 402 - - Relevance – subject of motion in limine | |
| 309 | 10-15-14 NW Center for Integrative Medicine Note (USAO 1939) | Stipulated | Disputed | FRE 402 - - Relevance – subject of motion in limine | |
| 310 | 8-14-13 NW Center for Integrative Medicine Note (USAO 1947-1948) | Stipulated | Disputed | FRE 402 - - Relevance – subject of motion in limine | |
| 311 | 4-1-15 Right Toe X-Ray (USAO 1212) | Stipulated | Disputed | FRE 402 - - Relevance | |

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|------------|---|------------|------------|--|--|
| | | | | – subject of motion in limine | |
| 312 | 4-4-16 Note from Dr. Tronvig (USAO 1302-1303) | Stipulated | Disputed | FRE 402 - - Relevance – subject of motion in limine | |
| 313 | 7-26-16 Note from Dr. Tronvig (USAO 1318-1319) | Stipulated | Disputed | FRE 402 - - Relevance – subject of motion in limine | |
| 314 | 11-10-18 CT Scan of Pelvis (USAO 136-137) | Stipulated | Stipulated | | |
| 315 | 11-10-18 Right Ankle X-Ray (USAO 870) | Stipulated | Stipulated | | |
| 316 | 11-10-18 Right Wrist X-Ray (USAO 871) | Stipulated | Stipulated | | |
| 317 | 11-10-18 Right Hand X-Ray (USAO 872) | Stipulated | Stipulated | | |
| 318 | 11-13-18 ER Note (USAO 215 – 218) | Stipulated | Stipulated | | |
| 319 | 11-16-18 ER Note (USAO 209-213) | Stipulated | Stipulated | | |
| 320 | 11-26-2018 Kawasaki Note (USAO 854 – 858) | Stipulated | Stipulated | | |
| 321 | 11-26-18 X-Ray Lumbar Spine (USAO 1219) | Stipulated | Stipulated | | |

AMENDED PRETRIAL ORDER - 28
3:20-CV-5581-MJP

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|-----|--|------------|------------|--|--|
| 322 | Harbor Physical Therapy Lower Extremity Patient Outcome 1-23-2019 (USAO 960 – 961) | Stipulated | Stipulated | | |
| 323 | Harbor Physical Therapy 2-4-2019 Note (USAO 951 – 952) | Stipulated | Stipulated | | |
| 324 | Harbor Physical Therapy 2-11-2019 Quick DASH (USAO 1019) | Stipulated | Stipulated | | |
| 325 | Harbor Physical Therapy 2-11-19 Note (USAO 946 – 947) | Stipulated | Stipulated | | |
| 326 | Harbor Physical Therapy 2-13-2019 Note (USAO 944 – 945) | Stipulated | Stipulated | | |
| 327 | Harbor Physical Therapy 2-27-2019 Note (USAO 938 – 941) | Stipulated | Stipulated | | |
| 328 | Harbor Physical Therapy 3-4-2019 Note (USAO 934-935) | Stipulated | Stipulated | | |
| 329 | Harbor Physical Therapy Upper Extremity Patient Outcome (USAO 1026) | Stipulated | Stipulated | | |
| 330 | Harbor Physical Therapy 3-11-19 Initial Exam (USAO 1027 – 1029) | Stipulated | Stipulated | | |
| 331 | Harbor Physical Therapy 4-10-19 Note (USAO 1001 – 1002) | Stipulated | Stipulated | | |
| 332 | Harbor Physical Therapy 4-15-19 Note (USAO 999 – 1000) | Stipulated | Stipulated | | |
| 333 | Harbor Physical Therapy 4-17-2019 Note (USAO 996) | Stipulated | Stipulated | | |
| 334 | Harbor Physical Therapy 4-22-19 Note (USAO 994 – 995) | Stipulated | Stipulated | | |
| 335 | Harbor Physical Therapy 5-6-2019 Discharge Note (USAO 984 - 986) | Stipulated | Stipulated | | |
| 336 | Harbor Physical Therapy 5-6-19 Progress Note (USAO 988 – 990) | Stipulated | Stipulated | | |
| 337 | Harbor Physical Therapy Quick DASH from 5-6-2019 (USAO 987) | Stipulated | Stipulated | | |
| 338 | Harbor Physical Therapy Upper Extremity Patient Outcome 5-6-2019 (USAO 982 – 983) | Stipulated | Stipulated | | |

AMENDED PRETRIAL ORDER - 29
3:20-CV-5581-MJP

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| 339 | 3-21-2019 Right Knee MRI (USAO 875) | Stipulated | Stipulated | | |
| 340 | Harbor Physical Therapy Upper Extremity Patient Outcome 3-25-19 (USAO 1026) | Stipulated | Stipulated | | |
| 341 | Olympia Orthopedic Associates 4-5-2019 Note (USAO 784 – 787) | Stipulated | Stipulated | | |
| 342 | Olympia Orthopedic Associates 5-29-19 Note (USAO 1070 – 1072) | Stipulated | Stipulated | | |
| 343 | Olympia Orthopedic Associates Imaging 4-5-2019 (USAO 1724) | Stipulated | Stipulated | | |
| 344 | YouTube Video Entitled “02 wrx tgv delete in garage getting subie ready for dyno day....stay tuned.mp4” | Stipulated | Stipulated | | |
| 345 | YouTube Video Entitled “#fly-by in 02 wrx stage2+ with catless downpipe, exhaust, cobb 3port, sf intake, gfb hybrid bov.mp4” | Stipulated | Disputed | FRE 402 - - Relevance | |
| 346 | YouTube Video Entitled “06 impreza 2.5I single head plaining #DIY #headresurfacing #subaruheadgasketrepair.mp4” | Stipulated | Stipulated | | |
| 347 | YouTube video entitled “USAO_2007 AEM 340 fuel pump install in my 02 wrx for 1000cc cobb injectors.mp4” | Stipulated | Stipulated | | |
| 348 | YouTube video entitled “USAO_2008 April 21, 2020.mp4” | Stipulated | Stipulated | | |
| 349 | YouTube video entitled “USAO_2009 building custom carbonfiber flares plugs and moldbuilding(1).mp4” | Stipulated | Stipulated | | |
| 350 | YouTube video entitled “USAO_2011 building molds for custom carbon fiber flares for wrx(4).mp4” | Stipulated | Stipulated | | |

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|-----|---|------------|---|---|--|
| 351 | YouTube video entitled “USAO_2012 building molds for custom carbon fiber flares for wrx(5).mp4” | Stipulated | Stipulated | | |
| 352 | YouTube video entitled “USAO_2013 getting flanges glassed on the plug for the #flares...#bugeye.mp4” | Stipulated | Stipulated | | |
| 353 | YouTube video entitled “USAO_2014 getting highbuild on plugs.mp4” | Stipulated | Stipulated | | |
| 354 | YouTube video entitled “USAO_2015 laying molds onto plugs #subaruparts #customparts #carbonfiber #builtnotbought.mp4” | Stipulated | Stipulated | | |
| 355 | YouTube video entitled “USAO_2016 paint correction.mp4” | Stipulated | Stipulated | | |
| 356 | TBC Wage Records (USAO 2017-2031) | Stipulated | Stipulated | | |
| 357 | Hoquiam School District Records (USAO 2063-2154) | Stipulated | Disputed – pages 2114, 2115, 2116-2117, 2140-2148, 2160 | Prior DUI is addressed in Plaintiffs’ Motions in Limine. Medical insurance coverage | |

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| | | | | and shared leave are addressed in Plaintiffs' Motion in Limine re: Collateral Source Rule. | |
| 358 | Jennifer Johnson's Answers to Interrogatories and Declaration of Jennifer Johnson | Stipulated | Disputed in part: (1) Interrogatory 6 regarding prior bankruptcy, which is the subject of a motion in limine; | | |
| 359 | Jarod Mann Invoice | | | | |

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|-----|------------------------|--|--|--|--|
| 360 | John Johnson QuickDASH | | | | |
| | from Jarod Mann | | | | |

ACTION BY THE COURT


- (a) This case is scheduled for trial without a jury on December 6, 2021, at 9:00 a.m.
- (b) Trial briefs and findings of fact and conclusions of law shall be submitted to the court on or before November 26, 2021.
- (c) The Court's Order on the Parties' motions in limine is at Docket Number 43.

This order has been approved by the parties as evidenced by the signatures of their counsel.

This order shall control the subsequent course of the action unless modified by a subsequent order.

This order shall not be amended except by order of the Court pursuant to agreement of the parties or to prevent manifest injustice.

DATED this 3rd day of December, 2021.



Marsha J. Pechman
United States Senior District Judge

FORM APPROVED

STRITMATTER KESSLER KOEHLER MOORE



Ray W. Kahler, WSBA #26171
Co-Counsel for Plaintiffs

AMENDED PRETRIAL ORDER - 33
3:20-CV-5581-MJP

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AMENDED PRETRIAL ORDER - 34
3:20-CV-5581-MJP